Changes in the handbook HUD 4350.3 Rev. 1
Important for Tax Credit Properties
By Liz Bramlet, Consultant for Quadel Consulting Corporation

Chapter 3. Eligibility for Assistance and Occupancy

3-6 Income Limits
E. Income Limits and Family Size
Paragraph 4 on Page 3-8

4. When determining family size for income limits, the owner *must* include the following individuals who are not living in the unit:

   a. Children temporarily absent due to placement in a foster home;
   b. Children in joint custody arrangements who are present in the household 50% or more of the time;
   c. Children who are away at school but who live with family during school recesses;
   d. Unborn children of pregnant women;
   e. Children who are in the process of being adopted;
   f. Temporarily absent family members who are still considered family members;
   g. Family members in the hospital or rehabilitation facility for periods of limited or fixed duration; and
   h. The family decides if persons permanently confined to a hospital or nursing home will be included in the family size for determining the income limit.

Change 27 to the old handbook included a typo on a chart mistakenly instructing owners to count unborn children in the household size for determining the income limit. It is now HUD policy to include unborn children in the income limits. For properties with project based Section 8 or a Section 236 mortgage this policy will necessitate a change in programming in TRACS.

Also in the past, HUD did not require owners to include children in the process of being adopted and temporarily absent members in the household when selecting the correct income limit.

3-11 Consent and Verification Forms
B. Who Must Sign Consent and Verification Forms Page 3-18

Consent forms must be signed by:

1. The head of the household (regardless of age);
2. The spouse or co-head of the household (regardless of age); and
3. Any other family member who is 18 years old or older.

Tax credit owners and managers should already be requiring all adult household members to sign the necessary forms including an income checklist, assets declaration and disposal of assets form, the initial and annual tenant income certification, etc. In the past, managers at some HUD properties only required the head of the household to sign.

Chapter 5. Determining Income and Calculating Rent

5-4 Key Requirements Page 5-3

B. Annual income includes all amounts that are not specifically excluded by regulation. Exhibit 5-2, Income Inclusions and Exclusions, provides the complete list of income inclusions and exclusions published in the regulations and *Federal Register* notices.

Owners and managers may still find income sources not listed on the list of inclusions and exclusions. HUD officials did not go beyond listing those sources specifically listed in official regulations and notices. Managers should continue to follow the practice of including any income source not specifically excluded in Exhibit 5-2.

5-6 Calculating Income – Elements of Annual Income
K. Income from Training Programs
Paragraph 2 on Page 5-13

2. …. Income from training programs not affiliated with a local government, and income from the training of a family member resident to serve on the management staff, is also excluded.

   a. Excluded income must be received under employment training programs with clearly defined goals and objectives and for a specific, limited time period. The initial enrollment must not exceed one year, although income earned during extensions for additional specific time periods may also be eligible for exclusion.

   b. Training income may be excluded only for the period during which the family member participates in the employment training program.

   c. Exclusions include stipends, wages, transportation or child care payments or reimbursements.

   d. Income received as compensation for employment is excluded only if the employment is a component of a job training program. Once training is completed, the employment income becomes income that is counted.

e. Amounts received during the training period from sources that are unrelated to the job training program, such as welfare benefits, social security payments, or other employment are not excluded.

Prior to the release of the new handbook, only income received from government related job training programs was excluded from annual income.

N. Withdrawal of Cash or Assets from an Investment
Page 5-15

The withdrawal of cash or assets from an investment received as periodic payments should be counted as income unless the family can document that the amounts withdrawn are reimbursement of amounts invested. When a family is making regular withdrawals from an account in which it has made an investment, the withdrawals will count as income only after the amount invested has been totally paid out. Withdrawals from investments will be treated as income only when the withdrawals are made on a regular basis, as in the monthly payments received from an annuity.

This paragraph provides on the treatment of the amount households invest in assets.

5-7 Calculating Income from Assets
F. Calculating Income from Assets when Assets Exceed $5,000
Paragraph 1.b on Page 5-22

….The passbook rate is currently set at 2%.

There have been rumors the passbook rate would be changed. Many HUD field offices have set differing passbook rates from the Section 8 Housing Choice Voucher Program. The Low Income Housing Tax Credit Program uses the passbook rate as established for the project based Section 8 Program which remains at 2% until the Multifamily Branch at HUD Headquarters announces a different rate.

G. Calculating Income from Assets – Specific Types of Assets
Paragraph 1b(4) on Page 5-26 Trusts

Nonrevocable trust distributing income. When a tenant places an asset in a nonrevocable trust but continues to receive income from the trust, the income is added to annual income and the trust is counted as an asset disposed of for less than market value for two years. Following the two-year period, the owner will count only the actual income distributed from the trust to the tenant.

This paragraph provides clarity on income a family continues to receive from an asset placed in a nonrevocable trust.

Paragraph b(5) on Page 5-27

Payment of principal from a trust. … The beneficiary of a trust may receive funds from the trust in different ways. A beneficiary may receive the full value of a trust at one time. In that instances the funds would be considered a lump sum receipt and would be treated as an asset. A trust set up to provide support for a person with disabilities may pay only income from the trust on a periodic basis. Occasionally, however, a beneficiary may be given a portion of the trust principal on a periodic basis. When the principal is paid out on a periodic basis, those payments are considered regular income or gifts and are counted in annual income.

This paragraph provides clarity on HUD's policy on trusts.

Paragraph 2b(1)&(2)
Page 5-28 - Annuities

b. Income after the holder begins receiving payments.

(1) When verifying an annuity, owners should ask the verification source whether the holder of the annuity has the right to withdraw the balance of the annuity. For annuities without this right, the annuity is not treated as an asset.

(2) Generally, when the holder has begun receiving annuity payments, the holder can no longer convert it to a lump sum of cash.

In this situation, the holder will receive regular payments from the annuity that will be treated as regular income, and no calculations of income from assets will be made.

However, the amount that the holder invested in the annuity will not be counted as income.

Paragraph 2c(1),(2),(3),(4) & (5)
Page 5-29

c. Calculations when an annuity is considered an asset.

(1) When an applicant or tenant has the option of withdrawing the balance of an annuity, the annuity will be treated like any other asset. …

(2) In most instances, an annuity from which payments have not yet been made is earning income on the balance in the annuity. …

(3) The owner will need to verify with the insurance agent or other appropriate source:

The right of the holder to withdraw the balance even if penalties are involved.

The basis on which the annuity may be expected to grow the coming year.

The surrender or early withdrawal penalty fee.

The tax rate and tax penalty that would apply if the family withdrew the annuity.

(4) The cash value will be full value of the annuity, less the surrender penalty, and less any taxes and tax penalties that would be due.

(5) The actual income is the balance in the annuity times the percentage at which the annuity is expected to grow over the coming year. This money will be reinvested into the annuity, but it is still considered actual income.

This section provides far more specific instructions on how to treat annuities than in any prior communications from HUD.

Paragraph 4
Example on Page 5-33

The example HUD considers 401(k) and similar retirement savings programs as asset comparable to traditional pension funds.

There had been some confusion as to whether HUD considered a 401(k) account an asset comparable to a traditional pension fund.

5-13 Acceptable Verification Methods
Paragraph B3
Page 5-49

Electronic. The owner may obtain accurate third party written verification by facsimile, email or Internet, if adequate effort is made to ensure that the sender is a valid third party source.

Compliance monitoring officials will need to establish standards for documentation needed to establish the validity of information received using electronic methods.

Paragraph D
Page 5-52

An owner may accept a tenant's *notarized* statement regarding the veracity of information submitted if the information cannot be verified by another acceptable verification method.

HUD clarifies the expectation that tenant statements' used to verify information needed to establish program eligibility and level of assistance include notarized signatures.

Appendix 3 includes a chart detailing acceptable methods for documenting various forms of income, assets and other family characteristics.